

Comments in Support of the Adoption of
2009 Senate Bill 348

By: Ronald J. Antoine on behalf of the Wisconsin Land Title Association (WLTA)

In 2007, the Legislature enacted statutes that resolved the uncertainty regarding the status of marina condominiums that followed a decision by the Wisconsin Supreme Court in *ABKA Ltd. Partnership v. Wisconsin Dept. of Natural Resources* (2002) 648 N.W.2d 854, 255 Wis.2d 486. SB 348 makes changes in Sections 30.133 and 30.1335, Wisconsin Statutes. All of the proposed changes, other than the last, fall into the category of "housekeeping".

At Page 2, Line 2, an erroneous reference to S. 30.1355 is corrected to read 30.1335. The Legislative Reference Bureau has already noted the error in the current edition of the statutes.

At Page 2, Line 10, the word "in" was omitted from the act creating S. 30.1335(3)(b). The bill corrects this error by inserting the word "in" prior to "par. (a)". The Legislative Reference Bureau has already noted the error in the current edition of the statutes.

At Page 3, Lines 2-3 and 14, the bill adds the words "the other sections of" prior to the words "this subchapter" at the request of the Wisconsin Dept. of Natural Resources in order to clarify the two subsections. These two subsections establish the continuing validity of permits issued to place, maintain or use a boat docking facility. While the WLTA is not aware of a need for this clarification, it does not object to the changes. The DNR has approved this language change.

At Page 3, Line 21, the word "the" is inserted prior to the word "declaration". The earlier omission was clearly erroneous.

At Page 3, Lines 22-23, the current requirement in S. 30.1335(6)(a) for the agreement of all unit owners to amend a condominium declaration of a marina condominium is changed to conform with the requirements for amendment of all other condominiums, as contained in Ch. 703, the Condominium Ownership Act. In other words, the condominium law allows declarations to be amended by a two-thirds vote, but this law, by using the word "all," suggests that a declaration for a marina condominium can only be amended by a unanimous vote. This was an oversight at the time the law was drafted and this bill will cure this problem. We are aware of no rational basis for a requirement to distinguish between the two types of condominiums for purposes of amending their respective declarations. Nor are we aware of any interested party advocating such a requirement.

Prior to his retirement in 2007, Ronald J. Antoine was a Vice-President of and the Wisconsin State Manager for Chicago Title Insurance Company, a national title insurance underwriter and a subsidiary of Fidelity National Financial, Inc. Ron is a 1969 graduate of the Marquette University School of Business Administration and a 1972 graduate of Marquette University Law School. He was employed by Chicago Title from 1972 to 2007 and, in addition to his more recent responsibilities as manager and state counsel, he has experience as a title examiner, agency counsel and agency manager. Since his retirement, Ron has continued his relationship with Chicago Title as a management consultant.

Ron is a former President of the Wisconsin Land Title Association and former Chair of its Legislative Committee. He is a member of the State Bar of Wisconsin and served two terms as a Director of the Real Property, Probate and Trust Law Section.